

RECEIVED

Norman C. Kleinberg (NK 2735)
Theodore V. H. Mayer (TM 9748)
William J. Beausoleil (WB 5296)
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

Fosamax Products Liability Litigation

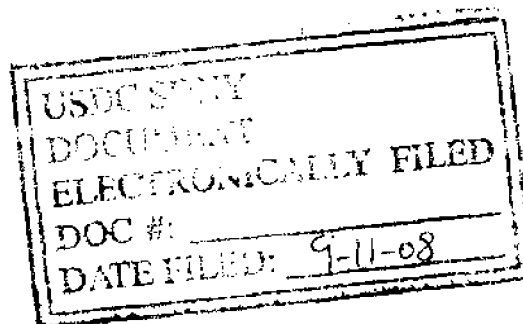
1:06-md-1789 (JFK)

-----X
This Document Relates to:

Juan M. Vasquez, et al.

v. Merck & Co., Inc.

Case No. 1:07-cv-7295-JFK
-----X



STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs in the above-captioned case and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

1. This case having been resolved upon the agreement of the Plaintiffs in the above-captioned case to voluntarily dismiss without prejudice their claims against Merck and the agreement of Merck not to seek from Plaintiffs its fees and costs, the following Plaintiffs are hereby dismissed from the above-captioned case without prejudice pursuant to Fed. R. Civ. P. 41(a)(1):

Anka Vrankovic and Nevenko Vrankovic, wife and husband;
Barbara Stasinos;
Cynthia Laub and Muhammed Korde, wife and husband;
Eddie Martinez;
Esther Zaidman and Aaron Zaidman, wife and husband;
Frank Chavez;
Irma O. Napolilli;
Juan M. Vasquez;
Launa Mcelwain;
Linda Majka;
Pacita C. Rivera;
Sandra Krasnik and Michael Krasnik, wife and husband; and
Sheri Evans

2. The above-named Plaintiffs agree that, in the event they re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy, such lawsuit will be filed in this Court, without joining any party whose joinder would defeat diversity pursuant to 28 U.S.C. § 1332.

3. The above-named Plaintiffs further agree that in the event they re-file such lawsuit, any discovery that has taken place or will take place in *In re Fosamax Products Liab. Litig.* (MDL-1789), the MDL proceeding that has been established in the United States District Court for the Southern District of New York, and that is not specific to a particular plaintiff, can be used in any such lawsuit re-filed by the above-named Plaintiffs as though they had been a party and had an opportunity to participate in that discovery.

4. The above-named Plaintiffs agree to the stated conditions herein and wish to dismiss the instant lawsuit without prejudice to re-filing. There are no counterclaims or third-party claims.

5. Each party is to bear its own costs and attorneys' fees.

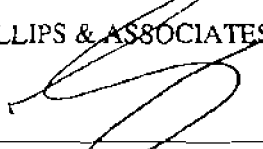
WHEREFORE, the above-named parties hereto stipulate to the dismissal of the above-named Plaintiffs without prejudice to re-filing, subject to the conditions stated herein.

Dated: ^{Sykesberg} ~~August~~, 2008


PHILLIPS & ASSOCIATES

HUGHES HUBBARD & REED LLP

By


Lowell W. Pinson
3030 N. Third St.
Suite 1100
Phoenix, AZ 85012-3049
(602) 258-8900 ext. 295

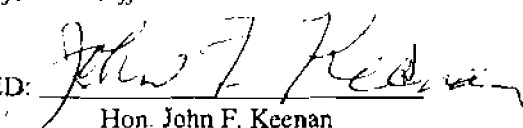
By


Theodore V. H. Mayer (TM 9748)
One Battery Park Plaza
New York, New York 10004
(212) 837-6888

Attorneys for Plaintiff

Attorneys for Defendant Merck & Co, Inc.

SO ORDERED:

 9/11/08
Hon. John F. Keenan